

## Women Rights to Inheritance in Muslim Family Law: An Analytical Study

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### Abstract

Rights of women are one of the widely discussed yet debatable issues across the Western and Muslim world. It is seen in the Muslim societies that many women are deprived in terms of inheriting property after the demise of their parents. This is largely happening due to the negligence of practicing Islamic teachings regarding inheritance at individual and family level. However, Islam has placed a dignified position for women in family and society in all sectors. Particularly the principle of inheritance of property has been clearly stated in the holy Qur'an. In this background, this paper emphasises on exploring (a) Qur'anic and Prophetic stand on women's right to inheritance, (b) the main obstacles that impede women in getting inheritance rights in family and its remedies from the Islamic perspectives. This paper adopts an analytical approach to study this vital issue. Under this approach, the study analyses the relevant data from the two fundamental sources of Islam, Qur'an and Sunnah, along with jurisprudential views and provides solutions to solve the problems related to Muslim women's inheritance right in family. Findings of this paper indicated that if the Muslim family practices the Islamic teachings regarding the distribution of inheritance among the heirs, it will eradicate the existing discrimination among men and women in this regard and enable women's financial steadiness in family and society.

**Keywords:** Rights of Women, Inheritance, Analysis, Islamic Perspective.

### I. Introduction

Every culture and society accorded women a particular status and position. Women's oppression in every spheres of their life is a common phenomenon and most of the time women stand degraded in the family (Cornwall, 2016; Ali, Solihin & Haque, 2018), particularly when it comes to right to inheritance. However, right of women in the family about inheritance is well described in the Qur'an and Sunnah. Women do not really have equal rights as men do but they hold special rights in heritage, dignity, and guardianship of children custody in the family. This is because Islam secures their financial rights which must be handled by lawful guardian (father, brother & husband etc) as an obligatory responsibility in all circumstances of their lives. For example, a woman's financial needs as a daughter must be fulfilled by her father (Sūrah al-Baqarah: 233). If she is an orphan, she must be provided for financial aid by her guardian from among her paternal grandfather or uncles.



Further, when she is married, it is obligatory for her husband, based on his capabilities, to bear all her financial expenses that she is entitled for as a wife. Allah (SWT) says in Sūrah al-Baqarah verse 233, "...The father of the child shall bear the cost of the mother's food and clothing on a reasonable basis..." (Al-Hilali, & Khan, 1434H). This is also approved by the Qur'an, verse 34 of Sūrah al-Nisā' and verse 6-7 of Sūrah al-Talāq'. A husband must provide food, clothing, house, medical treatment and other necessary things for his wife (Al-Zuhaylī, 2008, p. 121).

Moreover, as Muhammad Zuhaylī states that according to *Jamhūr al-Ulamā'* when her position in the family is as a sister, her brother must bear all her financial needs based on his capabilities. Lastly, if she does not have any male members in her family to fulfil her financial needs (Al-Zuhaylī, 2008, p. 121), then she must find her own financial resources. In this circumstance, the country and rich people must find financial resources for her, so she can maintain her daily life with respect and dignity (Jawad, 1998).

In *Jāhiliyyah* (ignorance) era women were not considered as heirs for inheritance left by their parents (Tobi, 1994). According to Qatādah, before the advent of Islam, women and children in the Arabian Peninsula were not allowed to receive inheritance left by their parents (Al-Zamakhsharī, 1407 H, vol. I, p. 476). During that time, it was a customary tradition that only those who can ride horses and show their bravery in the battlefield will be considered for inheritance (Hussain, 1987, p. 533).

Nevertheless, Islam is very encouraging and affirmative on the issue of women's right in term of gaining property ownership in the field of economics particularly in the field of inheritance property (Shatzmiller, 1995; Scott, 2009). Islamic teachings the Qur'an and the Prophetic traditions are the complete guidance for mankind. It does not only describe with regards to private acts of worship and moral principles but also well explained about all dealings regarding financial matter, particularly in the matter of inheritance distribution method among the heirs. According to al-Jibaly (2005, p. 1), the distribution of inheritance among heirs is religious act, thus it is necessary to understand it correctly to implement in our life.

However, the current paper is divided into three segments. In the first segment, it will explore the definition of inheritance from the Islamic perspective. In the second segment there will be two parts, in the first part the paper will highlights briefly about the ancient societies socio-cultural traditions and some religious belief about women's right in inheritance. In the second part, the paper will be gathered all the pertinent of sacred texts related to women's right to inheritance and it will be analysed with the view of Qur'anic commentators, Prophetic traditions along with jurisprudential views. Finally, this study will emphasis to highlights the main obstacles which hinder Muslim women from getting their due rights in inheritance left by the deceased.

## 2. Objective of the Research

Islam is very affirmative about women's status and their great position in terms of receiving every aspects of individuals, particularly in the rights of inheritance along with men for their betterment in family and in society. In the 21st century, women's positions and statuses are gradually rising in education, economics, healthcare and politics in the Muslim world but they are far lagged in terms of receiving inheritance property which are assigned by the Islamic teachings. However, the objective of this current study is to explore the rights of women to inheritance which has been assigned by the Islamic principles and their current status in the Muslim family in terms of receiving inheritance along with male members. The study also emphasises on empowering women financially by ensuring their inheritance proportion in the family along with male relatives based on the Islamic inheritance distribution approaches.

## 3. Data and Methodology

The current study has followed a qualitative approach, where it gathered all the data pertinent to women's rights in inheritance after the demise of their parents. The present paper adopts analytical approaches to study this vital issue. Under this approach, the study analyses the relevant data from the Qur'an and Sunnah along with Jurisprudential views and providing solutions to solve the problems related to Muslim women's inheritance right in family. Finally, the data were analysed and explained in detail in an argumentative approach based on the existing literatures related to the above substance.

## 4. Definition of Inheritance

There are several definitions can be found in Islamic literature some of them are stated bellow.

### 4.1 Linguistic Meaning of Inheritance (*Al-Mīrāth*)

Linguistically *al-mīrāth* means inheritance. It is driven from the word '*irth*' (Cheema, 2017). Inheritance has two meaning: firstly, survival things, like money, house and other stuffs. Secondly, the transfer of the thing from one person to another, i.e. transfer money from one person to another (the heir exists) or to pregnancy before birth, or moral as the transfer of science and creation (Al-Firūz, 1933, vol.I, p. 346.). Another meaning of Inheritance is "what the deceased leaves of money, it is left to the inheritors" (Abu Habib, 1988, p. 377).



#### 4.2 Literal Meaning of Inheritance (*Al-Mīrāth*)

The meaning of inheritance states in the Qur'an in Surah al-Nisā' verse 7, "There is a share for men and a share for women from is left by parents and those nearest related, whether the property is small or large, an obligatory share" (Al-Hilali, & Khan, 1434 H). According to the article 92 of the Code of Muslim Personal Laws of the Philippines defines that "the inheritance (*mīrāth*) of a person as including all properties of any kind, movable or immovable, whether ancestral or acquired either or onerous or gratuitous title, as well as all transmissible rights and obligations at the time of his death and those that accrue thereto before partition" (Alauya, 1989). Mzee defines the meaning of inheritance, "something which has endless or continuous, also it means transfer of property from one person to another whether intangible or tangible in nature" (Mzee, 2016, vol.45, p. 55). According to the Jurists, the meaning of 'inheritance' It is the name of what the heir inheritance from his deceased because of the causes of inheritance or is the transfer of the things (money, movable, intangible, i.e. land, house, factories, institutions etc.) money of others to others by way of succession (Ulamā al-Hind, n.d, vol. 6, p. 477 ).

Based on the above definitions, researchers feel, the meaning of inheritance is, 'any kind of boundless things, transportable and intangible (land, house, factories, shops etc.) properties, money (left by a deceased) transfer from one person to another due to the birth rights. Property as inheritance must be distributed among the heirs based on the approaches mentioned in the Islamic principles the Qur'an and Sunnah.

#### 5. Women's Right to Inheritance in Ancient Societies

In *Jāhiliyyah* (ignorance) era, the newborn daughters were killed because of fear that they would take part of the inheritance. They would also be considered as being the cause of shame for their family honor in the society. As Allah (SWT) mentions in the Qur'an about above these incidents:

*And do not kill your children for fear of poverty. We shall provide for them as well as for you. Surely, the killing of them is great sin (Sūrah al-Isrā' 17: 31; Al-Hilali, & Khan, 1434 H).*

*And when the news of (the birth of) a female (child) is brought to any of them, his face becomes dark, and he is filled with inward grief!. He hides himself from the people because of the evil of that whereof he has been informed. Shall he keep her with dishonour or bury her in the earth? Certainly, evil is their decision.( Sūrah al-Nahl, 16: 58-59, Al-Hilali, & Khan, 1434 H).*

In *Jāhiliyyah* (ignorance) era women were not considered as heirs for inheritance left by their parents. According to Qatādah (R.A), before the advent of Islam, women and children in the Arabian Peninsula were not allowed to receive any inheritance left by their parents (Al-Zamakhsharī, 1407 H, vol. 1, p. 476). During that time, it was a customary tradition that only those who can ride horses and show their bravery in the battleground will be considered for inheritance (Hussain, 1987, p. 533).

However, there was no practice in giving inheritance to women's in the era of *Jāhiliyyah* (ignorance) and the ancient societies and all the other religions except Islam. Studying the ancient societies' socio-cultural tradition and patriarchal social system, we would find that there is no comprehensive law for woman's inheritance along with their brother's after the demise of their parents. Most of the ancient societies considered woman as subordinate to man in family and in society. Status of women in In Greek society considered as second-class citizens and they were subject to men as inferior (Che, J. 2017). Women's job in the family is to taking care of the household tasks and follow the husbands order (Gabriel, K. A, 2016). In ancient societies women were not considered as a shareholder of inheritance along with their male relatives after the demise of their parents. There are many examples can be found in different religions in this regard, for example, in Judaism, women are not considered for inheritance, whether they are a daughter, mother or wife. This law exists in the book of "Ashah", the book of Genesis Chapter 21 (Tobi, 1994; Al-Rafā'ī, 1976). They also believe that women are the doors of evil by which Satan can enter the human body and invalid the law of God (Khan, 2012, p. 123). In addition, in Babylon traditions and social system, women were not considered for any inheritance left by her parents. She was only considered for inheritance wealth if there were no men in her family (Muskani, n.d, p. 97). Moreover, women in Mesopotamia considered as property like other property (Stephenson, 1988). In addition, women are mentioned as a curse in their holy book of "Torah" (Al-Muqaddas, Safar al-Jāmi'ah, al-Ishāh, 7: 26; Kayyāl, 1981, p. 46).

#### 6. Women Rights in Inheritance in the Qur'an

After the arrival of Islam, it was declared that no one, either male or female, weak or strong, unwell or healthy, orphaned or parented, etc, should be excluded from getting inheritance after the demise of their parents. The methods of distribution of the inherited wealth have been described in the Qur'an in Sūrah al-Nisā' verse 7 & 33:

*There is a share for men and a share for women from what is left by parents and those nearest relatives, whether the property is small or large - a legal share (Surah al-Nisā' 4: 7, Al-Hilali, & Khan, 1434 H).*

and

*And to everyone, we have appointed heirs of that (property) left by parents and relatives. To those (also) with whom you have made a pledge (brotherhood), give them their due portion (by Wasīyyah). Truly, Allah is Ever a Witness over all things. (Sūrah al-Nisā' 4: 33, Al-Hilali, & Khan, 1434 H).*

According to Qatādah and Sa'īd bin Zubayer, the reason for the revelation of these verses to the Prophet (SAW) was that the people of *Quraish* did not consider women and children as having the rights to gain inheritance (Ibn Kathīr, 1999, vol. 2, p. 229). Moreover, al-Rāzī mentions in his book of exegesis about the reason or context of the revelation of these verses related to inheritance distribution. 'Atā', Sa'ad bin al-Rabī' was martyred in the battle of 'Uhud, in the month of Shawwal AH 3, according to the Islamic calendar. He left behind his wife, two daughters and one brother. Unfortunately, his brother took away all the deceased wealth without paying anything to the Sa'ad's wife and daughters. Because of this, the wife of Sa'ad bin al-Rabī' went to the Prophet (SAW) and complained against her husband's brother regarding the inheritance. The Prophet (SAW) assured her that Allah (SWT) would decide in this regard and he asked her to go back first. Then, after a period of time, she came back again to the Prophet (SAW) and restated the issue. After that, the verse 11 and 12 of Sūrah al-Nisā' was revealed to solve the matter. Based on the verse, the Prophet (SAW) gave an instruction to the brother of Sa'ad to give back two-third of Sa'ad's property to Sa'ad's daughters and one-eighth to Sa'ad's wife, and as a brother of Sa'ad, he could keep the rest of the inheritance (Al-Rāzī, 1420H, vol. 9, p. 509; Salāh, 2007, p. 60).

However, in the two verses mentioned above, it is clearly understood that Allah (SWT) has given a general instruction about the rights of inheritance of wealth among the descendants and how it must be distributed according to the Qur'anic methods. In addition, these two verses not only include and secure the rights of women but also recap the distribution methods of inheritance for both men and women. Moreover, the distribution methods of inheritance have been described in more detailed in verses 11-12 of Sūrah al-Nisā'. The first verse on inheritance gives a clear instruction about how to distribute inheritance of wealth among the offspring. The verse says:

*Allah (SWT) enjoins concerning your children for the male is the equal of the portion of two females; but if there be more than two females, two-thirds of what the deceased left is theirs; and if there is one, for her is the half. And as for his parents, for each of them is the sixth of what he left, if he had a child; but if he did not have any child and (only) his two parents inherit him, for his mother is the third, but if he had brothers, for his mother is the sixth, after (payment of) a bequest he may have bequeathed or a debt. Your parents and your children, you know not which of them is the nearer to you in benefit. This is an ordinance from Allah (Sūrah al-Nisā', 4: 11, Asghar Ali, 1992).*

Subsequently, the Qur'an secures women rights to inheritance not only as a daughter after the demise of her parents but also as a mother after the demise of her son. Similarly, women also gain inheritance as a wife after the demise of her husband based on the Qur'anic guidelines. As Allah (SWT) says regarding this matter in Sūrah al-Nisā':

*...and theirs, i.e., wives' is the fourth of what you left if you did not have any child, but if you had a child, their share is the eighth of what you left after payment of legacies that you may have bequeathed or debts... (Sūrah al-Nisā', 4: 12, Al-Hilali & Khan, 1434 H).*

It is important to observe that the context of the revelation of the verses mentioned above was the *Jāhiliyyah* era, which was the pre-Islamic era that women had no rights to inheritance after the decease of her father, brother or husband. Imām al-Tabarī says in his book of Tafsīr, during the *Jāhiliyyah* period, women and children were not permitted to receive any share of inheritance (Al-Tabarī, 2000, vol. 8, p. 265). In fact, there was no regular and comprehensive rules about the distribution of inheritance. During that time, women everywhere were treated as being subordinated to men and they do not have any social position in terms of getting financial resources after the demise of their blood relatives. To eliminate this discrimination, the Qur'an affirms that women have a portion in inheritance as a daughter, wife and mother based on the Qur'anic guidelines as prescribed in Sūrah al-Nisā', verse 11-12.

There is a misconception being spread around the globe particularly in the Muslim world that men are getting more portion of inheritance than women are. Thus, women are considered inferior to men with regards to inheritance. It is a fact that men are getting a double share of inheritance than women are. Therefore, Muslim scholars have tried to justify the issue of men's double share of inheritance because of their greater economic responsibilities to maintain the family system and to ensure that their dependents such as mother, wife, sisters and children are not left without inheritance but also gain the share of inheritance

when they themselves encounter their death. Muhammad Qutb argues that it is an obligatory task for a man to spend his income on his wife, children and other relatives (sisters, widows etc) (Shah, 2006). On the other hand, usually a woman is not under any obligation to spend her means to maintain the family expenditure. According to Asghar Ali (1992, p. 71), this extra worth is given to men due to the social and economic responsibilities that a man must fulfil as a guardian of that family after the demise of their parents. In Islamic teachings, financial responsibility must be maintained by man to his wife and children (Sūrah al-Baqarah, 2: 233).

According to Imam al-Shāfi‘ī, *nafaqah* (financial expenditure) must be maintained by man for his wife and children. It (*nafaqah*) includes, food, clothes, house and other necessary things related to wife and children life (Al-Shāfi‘ī, 1990, vol. 5, p. 94). In addition, according to Muhammad Zuhaylī, men have the responsibilities to pay *mahar* as a dowry gift to his bride during marital ceremony. He is also responsible to take care of his own self, wife, children, parents at the old age and near relatives based on his capabilities (Al-Zuhaylī, 2008, p. 125). Based on the above discussion, by receiving a double share of inheritance compared to women, men do not really get any extra privilege and it also does not give any kind of hint that men are superior to women with regards to get more inheritance.

There is an argument that some people are trying to establish that the wife's right of '*mahar*' (bridal gift) is not enough as a compensation for the only half share of the inheritance of wealth which she receives in comparison to her male counterpart (Ali, 2004, p. 88). Furthermore, the obvious question in this regard which may arise in one's mind is that what will be the solution if the daughter remains unmarried or if she cannot marry for some reasons, but her father has deceased? In these circumstances, Great scholar Rashid Ridā asserted that the Qur'an gives a clear instruction to near relatives that they must come up with a constructive inheritance in her favour which could help her to survive with dignity and respect in the family and in society (Ridā, 1990, vol. 5, p. 53). It must be based on the guidelines prescribed in the Qur'an in Sūrah al-Nisā' verse 8, "From what is left by parents and those nearest relatives, there is a share for men and a share for women, whether the property be small or large, a determinate share" (Ali, 1989).

Researchers feel that the share of the man is twice compared to the share of the woman because men have certain responsibilities as guardians of the family which has been mentioned earlier. However, according to Islamic inheritance distribution system, the man always does not receive double share than woman. Rather, there are certain situations where women receive more inheritance than men.

There are many examples can be found in this regard, but the current study highlights few of them. i) If the deceased person left a daughter, wife, father, and mother, in this situation the daughter will get half of total inheritance. The wife will get one-eighth, the father and mother will get one-sixth each (Sūrah al-Nisā', 4:11-12). In this case, the daughter gets more share than the father and who is a man. ii) if the deceased left a daughter and her husband, her daughter inherits a half of the total inheritance and the husband will get only one-fourth (Sūrah al-Nisā', 4:12). Thus, in this situation, women receive more portion of inheritance than man (Zakī Yamānī, 2004, p. 167).

There is another situation, where man and woman both receive equal share, for example, if the deceased left only maternal brother and sister, in this condition both will receive equal share which is sixth, if they were more than two, they share a third after the payment of deceased's bequeathable and debts (Sūrah al-Nisā', 4:12). There is another situation where the deceased leave neither descendants nor ascendants as heirs. In this case the Qur'an clearly mentions how to distribute inheritance among brothers and sisters. The verse says:

*They ask you for a legal verdict. Say: "Allah directs (thus) about Al-kalālah (those who leave neither descendants nor ascendants as heirs). If it is a man that dies, leaving a sister but no child, she shall have half of the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance (Between them): if there are brothers and sisters, (they share), The male will have twice the share of the female. Thus, does Allāh make clear to you (His Law), lest you astray. And Allah is Al-Knower of everything" (Sūrah al-Nisā', 4: 176, Al-Hilali & Khan, 1434 H).*

There is a clear direction regarding the distribution of inheritance among the descendant and male relatives. The Prophet (SAW) said:

*Narrated by ibn 'Abbās (R.A): The Prophet (SAW) said, "Give the Farā'id (the shares prescribed in the Qur'ān) to those who are entitled to receive it, and then whatever remains, should be given to the closest male relative of the deceased". (Al-Bukhārī, 1997, vol.8, hadīth no: 6737, p. 388).*



Table I. Farā'id towards women Mentioned in the Qur'ān

Inheritor	Inheritance owned by	Share of inheritance
Daughter (one daughter and no son)	Father	1/2
Daughter (more than one and no son)	Father	2/3
Daughter (with son)	Father	Residuary, one daughter gets 1/2 of one son
Mother (If there is grandson)	Son	1/6
Mother (If there is no grandson)	Son	1/3
Wife (If there is no son)	Husband	1/4
Wife (If there is son)	Husband	1/8
Half-sister from the mother's side (one only and there is no descendants and parents of the deceased)	Brother	1/6
Sister (more than one and there is no descendants and parents of the deceased)	Brother	All get 1/3 of the property
Uterine sister (one only and there is no descendants and parents of the deceased)	Brother	1/2
Uterine sister (more than one and there is no descendants and parents of the deceased)	Bother	1/3

Source: (Sūrah al-Nisā', 4: 11, 12,176), (Khan, Abdullah, Rahman, Nor, & Yusoff, 2016)

Table 2. Farā'id towards women is derived from the Prophetic tradition ('*Ahādīth*'), consensus of the Muslim scholars' decisions (*Ijmā'*) and analogy (*Qiyās*)

Inheritor	Inheritance owned by	Share of inheritance
Granddaughter (son's daughter), If the daughter is not alive	Grandfather	1/2
Granddaughter (more than one)	Grandfather	2/3
Granddaughter with one daughter	Grandfather	1/6
Half-sister from father's side (If there is no uterine sister)	Half-brother from father's side	1/2
Half-sister from father's side, more than one (If there is no uterine sister)	Half-brother from father's side	2/3
Half-sister from father's side with half-brother from father's side	Half-brother from father's side	Residuary, one sister gets ½ of one brother
Half-sister from father's side with one daughter or son's daughter	Half-brother from father's side	Residuary, she will get what is left
Half-sister from father's side with uterine sister	Half-brother from father's side	1/6
Grandmother (both maternal & paternal), if there is no mother	Grandson	1/6

Source: Al-Kardi (2010) & Khan et al (2016)

Nevertheless, the Qur'an and the Prophetic traditions clearly instruct about women's financial maintenance which is her husband's responsibilities even if she possesses countless amount of wealth and is able to look after herself (Ali, 2004; Doi,

2006). She has a right to claim for her financial provisions from her husband and he is obliged to fulfil her financial needs. According to Al-Farrā', a husband must fulfil this responsibility based on his capabilities (Sūrah al-Talāq, 6-7; Al-Rāzī, I420H, vol.30, 564). In addition, The Qur'an and Prophetic tradition also secured women's inheritance right along with their male relative in every situation and it should be followed during the distribution of inheritance. The Prophet (SAW) said, "Give the *Farā'id* (the shares prescribed in the Qur'ān) to those who are entitled to receive it" and then whatever remains, should be given to the closest male relative of the deceased". (Al-Bukhārī, 1997, vol.8, hadīth no: 6737, p. 388).

In light of the above discussions, it is clearly understood that Islam ensures the right to inheritance for both men and women. Women's right to inheritance was missing before the advent of Islam. The Qur'an does not show any discrimination between men and women in this regard. A double share of inheritance is given to a man because he is responsible as the guardian of the family who needs to spend his means on his dependents like his wife, children, parents at the old age and near relatives. Thus, we could conclude the discussion by saying that the Qur'an has empowered men and women in terms of getting inheritance of wealth. In certain conditions, women get even more privilege in inheritance than men do.

## 7. Obstacles which Hinders Women's Right to Inheritance

In every society, women's status and their position accorded by traditional norms and patriarchal social system where women are being disregard and considered as subordinate of men. It is a common phenomenon that women are deprived of getting their rights in the Muslim family particularly when arise the issue of inheritance distribution among the deceased's heirs. However, there are various obstacles that hinder women rights in receiving bequest in the family along with their male relatives, few of them are highlighted below.

### 7.1 Socio-Cultural Traditions

Women's status across the globe is accorded in a particular position which is inferior to men in the family and in society (Jensen, 1995; Ali, et al., 2018). The history witnessed for the centuries, that the socio-cultural tradition has played a negative role on the advancement of women empowerment in our modern time, in every sphere of their lives particularly in the fields of gaining inheritance property's ownership (Alaei, 2017). In the pre-Islamic era, neither women nor children had a right to inheritance or ownership of wealth as only men received inheritance wealth that had been left by the deceased. Consequently, women of that time of *Jāhiliyyah* (ignorance) were deprived not only from getting inheritance of wealth but also from owning any properties due to the bad practice of cultural and traditional norms. In the United States, in the seventeenth and eighteenth centuries, woman's personal property become her husband's property when they married. The wife had no right to dispose or utilize her wealth without getting consent of her husband (Knaplund, 2008).

However, the similar view is still existing in today's Muslim society, that women do not have a right to gain ownership in inheritance properties and dispose it according to their will (Al-Jamri, 1986). It is a common phenomenon, in certain Muslim countries like Bangladesh, Pakistan and others. Women often do not receive any inheritance share after the demise of their parents. Sometimes, women are blackmailed and emotionally forced to turn their portion of inheritance over to their brothers (Al-Hibri, I-2000). In Pakistan, the negation of a woman's inheritance rights is becoming one of the major social issues, particularly when daughters are denied the inheritance rights left to them by their parents (Ahmad, Batool, & Dziegielewski, 2016). As cited by Khan et al., they have conducted a survey in one of the village of Bangladesh over 40 women, they found that only four women received their portion of inheritance (Khan et al, 2016). Traditional norms and socio-cultural system do not favour to receive inheritance property by woman. Even culturally, it is sometime considered as shame for women to ask about their inheritance property from their brothers until and unless they are offered (Khan et al, 2016).

### 7.2 Discrimination against Women

Discrimination against women is everyday practice across the world in every aspect of their life and Muslim world is not behind in this regard. In Muslim societies, despite it being the 21<sup>st</sup> century, the socio-cultural tradition is not in favour of women (Haque, Sarker, Rahman & Rakibuddin, 2020). For example, in Indian sub-continent, particularly Bangladesh and Pakistan maintain very normative perceptions towards women's position and status in the family. In these two countries discrimination begin at the time of birth (Sultana & Erlina, 2012; Islam & Dogra, 2011). Pakistan and Bangladesh are giving extra care and favour to boys over girls in term of upbringing. In Bangladesh, the family gives more preference to boys over girls. This preference occurs regardless of the social status of the family since it is highly observed in the society both in elite and poor families (Della-Giusta, & Phillips, 2006; Islam & Dogra, 2011). In Pakistan the culture and norms are totally rigid for women. Women's role is considered within "*Cadar and car Deewari*" (Naveed, et al, 2010).

In addition, discrimination against women would be also found in Arabian societies. In Arabian culture and traditions follow the patriarchal or hierarchal system to run the family, for instance, the father, then the eldest son is the main kingship on family matters. In Saudi Arabia, the family, society and nation treat women as second-class citizen. The family and cultural systems give more attention to boys' upbringing than the girls' (Tradoc, 2006; Haque, 2020). Boys are favoured more because

they will be taking care of their parents at their advanced age. In addition, only sons can bring honour and respect to the family and make them proud to the society (Tradoc, 2006).

For example, In Turkey, though the courts have mandated equal inheritance rights between men and women in 1926, but only 20% of women own some form of property and 92% of property is owned by men, as women have rescinded their inheritance rights to their male relatives (O'Neil & Toktas, 2017; Toktas, O'Neil, et al., 2013; Yasun, 2018).

However, from the Islamic point of view, women are must be free from any sort of mistreatment or social discrimination because of gender (Haque, Sarker, & Rahman, 2019). Islam does not support any kinds of discrimination among boys and girls in their social life in terms of gender. However, Islam has given extra emphasis on girls' upbringing. According to Sarah Mosedale, it is impossible to achieve international development without empowering women (Mosedale, 2014). Islam instructs to human beings that if anyone has a daughter and brings her up in a positive manner (giving good upbringing), that daughter would become a protector for them to be released from the fire on the Day of Judgment. As Prophet Muhammad (SAW) stated in the book of Sunnah:

*Prophet (SAW) said: "Anyone who is tested with daughters and treats them kindly, they will be a shield for him against the Fire" (Al-Hujjaj, 2007, vol. 6, hadīth no: 2629, 490).*

Another Prophetic tradition clearly pint out to parents that they should not marginalize girls in comparison to boys in a family on any matters. As Imām Tabrānī narrated, the Prophet (SAW) said, "Do justice with your children" (*'i' dilū bayna abnā' ikum*), (Abū-Dāwūd, 2008, vol.4, hadith 3544, p. 159) & (Al-Shagīr, 2008, p. 58). It means Islam has forbidden any sort of discrimination between girls and boys as well as between men and women. Both boys and girls should be treated justly in a family as well as in a society.

### 7.3 Lack of Religious Knowledge

Lack of religious education is another major cause to create obstruction for women to get inheritance after the demise of their parents. It leads disadvantaged of women from receiving inheritance in the family. As we see, even in this 21<sup>st</sup> century, in certain Muslim societies like Bangladesh, Pakistan, often women are mistreated about receiving inheritance right.

However, some of the Muslim countries like Turkey and Tunisia, are trying to give equal rights to women in inheritance matter, but they fail because they do not understand the *Shari'ah* according to the context and regarding the basic rights of women which are assured by Islam. Some times, Muslim society take initiative to promote women without understanding the Islamic teachings and values. Which often creates confusion and anarchy in the family and society. For example, Among the Arab nations Tunisia became the first nations who approved and pass the 'law of gender equality in inheritance' The law has been passed on August 2017 by the Tunisian President Beji Caid Essebsi. This controversial law will allow both men and women have the same portion in inheritance after the demise of their parents (Dhaka Tribune, 2018). In 1926, Turkey government also had passed the inheritance Law that women will get equal rights along with men in inheritance property (Toktas & O'Neil, 2013; Yasun, 2018). However, both countries have violeted the Qur'anic injunction or guidelines in the distribution of inheritance law which is women's share is half of men's in certain situations (Sūrah al-Nisā', 4: 11).

Another example, in Bangladesh, the government was trying to pass in the National Women Development Policy 2011, the equal inheritance law for both men and women. This idea is also contradict with the principle of Islamic inheritance distribution system (Sourav, 2015). However, women's position and status are being changed gradually across the globe, particularly in the Muslim world, but it is not within the guidelines of Islamic principles and values.

## 8. Solutions and Discussions

Islam is a divine and comprehensive way of life for all mankind. It discusses all the human needs to be survived on this earth with dignity and respect. Allah (SWT) says in this regard,

*"...And We have sent down to you the Book (the Qur'an) as an exposition of everything, guidance, mercy, and glad tidings for those who have submitted themselves (to Alāh as Muslims)." (Sūrah al-Nahl, 16: 89, Al-Hilali, & Khan, 1434 H).*

However, it is very unfortunate, often witnessed in the Muslim society people break the Islamic principles in their livelihood activities, particularly about the issue of inheritance distribution methods among the heirs after the demise of their parents. Thus, the current study highlights certain recommendations which could overcome the issue of women's inheritance rights in the family, hence resulting in contentment and minimized conflict between heirs. The researchers feel that to overcome the issue, muslim families should realised the importance of Islamic teachings and practices in their daily life thus adhering to the Islamic inheritance distribution system after the demise of their related family members. Family members should not discriminate women in management of inheritance substance, which are well mentioned in the Qur'an and Sunnah. Islam does not support any sort of preference between male and female in their life particularly on the matter of inheritance distribution



among the heirs. Prophet (SAW) said: "Do justice between your children" (*'i dilū bayna abnā'ikum*), (Abū-Dāwūd, 2008, vol.4, hadith 3544) Everyone must receive their due share based on the Qur'anic guidelines which has been discussed earlier in details (Sūrah al-Nisā', 4: 7-8, 11-12, 176). Parents should not consider only male heir will bring the joy and fame to the family, rather; both male and female should equally anticipated to bring happiness and glory to the name of the family. Scholars should take initiatives to enhance awareness on the exclusive rights of inheritance blessed upon both genders as described in the Qur'an and Sunnah. The researchers strongly believe on the comprehensive nature of the existing legislation in securing women's share in Islamic inheritance purged of any existing discrimination in practice within Muslim families across culture. Government additionally may impose legal ruling on the practice of inheritance rights for women based on the Qur'anic teachings, hence securing financial steadiness among family members and the society at large.

## 9. Findings of the Research

Based on the above exploration and discussion, there are certain findings can be extract about the issue of inheritance right to Muslim women in the family. During the *Jāhiliyyah* era (ignorance) women were not considered for inheritance along with their male relatives. In Islamic inheritance system does not discriminate women in terms of receiving inheritance property along with male relatives. In certain conditions women receive more share (inheritance) than man. Muslim family Often do not follow the Qur'anic approaches regarding the inheritance distribution among the heirs after the demise of their parents. The social traditions, cultural norms and patriarchal social system do not consider women as an important citizen as men. Often male relatives emotionally blackmail their women when it comes about the issue of inheritance distribution. Islam encourage to establish justice between boy and girls in terms of their upbringing along with other spheres in life.

## 10. Conclusion

Based on the above discussion and exploration, the study concludes that in Islam, women hold special position and status in the family and in society. Islam secures her financial positions which is to be taken care of by lawful men in the family and the society from her birth to her death. However, Islam does not support any kind of discrimination regarding women's inheritance property, rather; in certain conditions woman receive more inheritance than man. In Islamic inheritance system there are certain conditions where women receive equal inheritance share along with their male relatives. More interestingly in one occasion women receive half of total share of deceased along with man (Sūrah al-Nisā' 4: 11-12 & 176). Nevertheless, it is found throughout the discussion, that there are some factors which creates obstruction in terms of women's right to inheritance in the family, i.e. socio-cultural traditions, patriarchal social system and lack of religious knowledge and its practice in daily life. It is also extract from the study that if the Muslim family follow the Islamic inheritance distribution methods, it will reduce the mistreatment and injustice between man and woman in regard to inheritance property sharing among the heirs. There some countries try to bring new law regarding women's share in inheritance which is equal share like man (Dhaka Tribune, 2018; Sourav, 2015). It is fully contradicting with principles of Islamic inheritance system categorised in the Qur'an and Prophetic traditions. However, if Bangladesh and Tunisia implement the Islamic Law regarding inheritance distribution it will make women more empowered in economic sector and make them financially stable in the family and in society. As a result, it will also help them to be associated and take part into the economic sector by utilizing their property which will contribute in countries' economic growth.

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## Appendices

### Appendix A

Table I. *Farā'id* towards women Mentioned in the Qur'ān

Inheritor	Inheritance owned by	Share of inheritance
Daughter (one daughter and no son)	Father	1/2
Daughter (more than one and no son)	Father	2/3
Daughter (with son)	Father	Residuary, one daughter gets 1/2 of one son
Mother (If there is grandson)	Son	1/6
Mother (If there is no grandson)	Son	1/3



Wife (If there is no son)	Husband	1/4
Wife (If there is son)	Husband	1/8
Half-sister from the mother's side (one only and there is no descendants and parents of the deceased)	Brother	1/6
Sister (more than one and there is no descendants and parents of the deceased)	Brother	All get 1/3 of the property
Uterine sister (one only and there is no descendants and parents of the deceased)	Brother	1/2
Uterine sister (more than one and there is no descendants and parents of the deceased)	Bother	1/3

Source: (Sūrah al-Nisā', 4: 11, 12,176), (Khan, Abdullah, Rahman, Nor, & Yusoff, 2016)

## Appendix B

Table 2. *Fatā'id* towards women is derived from the Prophetic tradition (*'Aḥādīth*), consensus of the Muslim scholars' decisions (*Ijmā'*) and analogy (*Qiyās*)

Inheritor	Inheritance owned by	Share of inheritance
Granddaughter (son's daughter), If the daughter is not alive	Grandfather	1/2
Granddaughter (more than one)	Grandfather	2/3
Granddaughter with one daughter	Grandfather	1/6
Half-sister from father's side (If there is no uterine sister)	Half-brother from father's side	1/2
Half-sister from father's side, more than one (If there is no uterine sister)	Half-brother from father's side	2/3
Half-sister from father's side with half-brother from father's side	Half-brother from father's side	Residuary, one sister gets 1/2 of one brother
Half-sister from father's side with one daughter or son's daughter	Half-brother from father's side	Residuary, she will get what is left
Half-sister from father's side with uterine sister	Half-brother from father's side	1/6
Grandmother (both maternal & paternal), if there is no mother	Grandson	1/6

Source: Al-Kardi (2010) & Khan et al (2016)

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